

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-777V

Filed: November 19, 2012

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| ***** | NOT TO BE PUBLISHED |
| SUE K. SHARR and MAUREEN T. COX, * | |
| Co-Administrators of the Estate of * | |
| MARY KELLY, deceased, * | Special Master Zane |
| | * |
| Petitioners, * | |
| | * |
| v. * | Stipulation; attorneys' fees and costs |
| | * |
| SECRETARY OF HEALTH * | |
| AND HUMAN SERVICES, * | |
| | * |
| Respondent. * | |
| | * |

Lawrence R. Cohan, Anapol, Schwartz, et al., Philadelphia, PA, for Petitioners
Ann Donohue Martin, United States Dep't of Justice, Washington, DC, for Respondent

UNPUBLISHED DECISION ON ATTORNEYS' FEES AND COSTS¹

On October 22, 2012, the parties in the above-captioned case filed a Stipulation of Facts Concerning Attorneys' Fees and Costs (Stipulation) memorializing their agreement as to the appropriate amount of attorneys' fees and costs in this case. After informal discussions with Respondent, Petitioners request a total award of \$47,557.10. In accordance with General Order #9, Petitioners represent that Petitioners incurred no personal litigation costs. In accordance with 42 U.S.C. § 300aa-15(e), the undersigned awards the amount to which Respondent does not object.

Petitioners, on behalf of their mother, Mary Kelly ("Kelly"), allege that Kelly suffered from Guillain-Barre Syndrome ("GBS") that was caused in fact by her receiving an influenza

¹ The undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire ruling will be available to the public. Id.

(“flu”) vaccination on November 13, 2009. A decision awarding compensation based upon the parties’ stipulation was entered on October 1, 2012.

Although Respondent did not concede the claim, the parties, nonetheless, settled the matter, and an award of compensation was made. Because, Petitioners have been awarded compensation, Petitioners are entitled to an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e). Pursuant to the Stipulation of the parties, Petitioners request an award of \$47,557.10 in attorneys’ fees and costs. In accordance with General Order #9, Petitioners represent that they have not personally incurred any litigation costs. The undersigned finds that the amount requested is reasonable. Based on the request’s reasonableness and pursuant to Vaccine Rule 13, the undersigned **GRANTS** the parties’ request as outlined in the Stipulation. In accordance with 42 U.S.C. §§ 300aa–15(b) and (e)(1), the undersigned awards the amount to which Respondent has agreed. The judgment shall reflect that Petitioners are awarded attorneys’ fees and costs as follows:

in a check made payable jointly to Petitioners (Sue K. Sharr and Maureen T. Cox, Co-Administrators of the Estate of Mary Kelly) and Petitioners’ counsel (Lawrence R. Cohan, Anapol, Schwartz, et. al.), in the amount of \$47,557.10.

The court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Daria Zane
Daria J. Zane
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.